

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
) PCB 07-53  
MOLINE PLACE DEVELOPMENT, LLC, ) (Enforcement -- Water)  
and CROSSTOWNE PLACE )  
DEVELOPMENT, LLC, )  
)  
Respondents. )

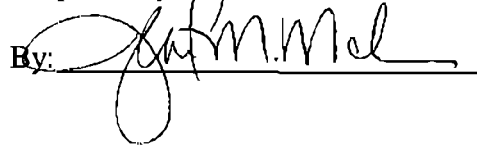
**NOTICE OF FILING**

TO: Mr. John Therriault Carol Webb, Esq.  
Assistant Clerk of the Board Hearing Officer  
Illinois Pollution Control Board Illinois Pollution Control Board  
100 West Randolph Street 1021 North Grand Avenue East  
Suite 11-500 Post Office Box 19274  
Chicago, Illinois 60601 Springfield, Illinois 62794-9274  
(VIA ELECTRONIC MAIL) (VIA U.S. MAIL)

(PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a **RESPONSE TO COMPLAINANT'S REQUEST FOR ADMISSION OF FACT AND GENUINENESS OF DOCUMENTS** on behalf of MOLINE PLACE DEVELOPMENT, LLC, copies of which are herewith served upon you.

Respectfully submitted,

By: 

Dated: January 28, 2010

Jennifer M. Martin  
HODGE DWYER & DRIVER  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
(217) 523-4900

THIS FILING SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
v. ) PCB 07-053  
) (Enforcement—Water)  
MOLINE PLACE DEVELOPMENT, L.L.C.)  
and CROSSTOWNE PLACE, L.L.C., )  
)  
Respondents. )

**RESPONSE OF RESPONDENT  
MOLINE PLACE DEVELOPMENT, L.L.C.  
TO COMPLAINANT'S REQUEST FOR  
ADMISSION OF FACT AND GENUINENESS OF DOCUMENTS**

NOW COMES Respondent, MOLINE PLACE DEVELOPMENT, L.L.C.  
("Moline Place" or "Respondent"), by its attorneys, HODGE DWYER & DRIVER, and  
pursuant to Illinois Supreme Court Rule 216 and Section 101.618 of the Illinois Pollution  
Control Board's ("Board") procedural rules, provides the following responses to  
Complainant's Request for Admission of Fact and Genuineness of Documents.

**RESPONSES**

1. Moline Place is an Illinois limited liability company in good standing.  
**ANSWER: Moline Place admits it was an Illinois limited liability company until  
December 31, 2009, when it was inadvertently voluntarily dissolved. Moline Place  
has submitted documentation to the Illinois Secretary of State requesting  
reinstatement of Moline Place Development, LLC.**

2. Michael R. Shamsie is the registered agent for Moline Place and the  
principal office of the company is located at 455 42nd Avenue, East Moline, Illinois.

**ANSWER: Respondent admits that Michael R. Shamsie is the registered agent for Moline Place, but notes the principal address of the company is at 455 Avenue of the Cities, East Moline, Illinois.**

3. Mr. Shamsie is a licensed professional engineer and the president of an engineering firm known as Landmark Engineering Group, Inc. The principal office of Landmark Engineering Group, Inc. is also located at 455 42nd Avenue, East Moline, Illinois.

**ANSWER: Respondent admits that Mr. Shamsie is a licensed professional engineer and the president of Landmark Engineering Group, Inc., the principal office of which is located at 455 42nd Avenue, East Moline, Illinois.**

4. Moline purchased property located at 7th Street and 11th Avenue, in Moline, Rock Island County, Illinois, for the purpose of developing a residential housing area commonly referred to as One Moline Place.

**ANSWER: Respondent admits it purchased property located at 7th Street and 11th Avenue in Moline, Rock Island County, Illinois, for the purpose of development for other uses and it reverted to residential development in 2002 at the request of the City of Moline and is commonly referred to as "One Moline Place."**

5. One Moline Place consists of two sites: one of approximately thirteen acres on the east side of 7th Street and the second of approximately sixteen acres on the west side of 7th Street.

**ANSWER: Respondent admits that Moline Place Development owned real property in two locations, and that one location was approximately thirteen acres on**

**the east side of 7th Street, and the second location was approximately sixteen acres on the west side of 7th Street. Respondent affirmatively states that title to all of the parcels in Phase I to different builders and developers, and the remaining undeveloped parcels of property are being transferred to the City of Moline. Respondent lacks sufficient information to admit or deny whether “One Moline Place,” as referred to in Complainant’s Requests to Admit, is the same real property owned by Moline Place Development.**

6. One Moline Place discharges storm water either to local streets and from there into the municipal storm sewers or directly into the municipal storm sewers at the site. The municipal storm sewer discharges into a swift flowing portion of the Mississippi River known as the Sylvan Slough.

**ANSWER: Respondent admits that stormwater from certain areas within the property owned and previously owned by Moline Place Development (as described in the response to Request No. 5) discharged to local streets, and from there to the municipal storm sewers; and that stormwater from certain areas within the property owned and previously owned by Moline Place Development (as described in the response to Request No. 5) discharged directly into the municipal storm sewers at the site. Respondent lacks sufficient knowledge to admit or deny that the municipal storm sewer discharges into a swift flowing portion of the Mississippi River known as the Sylvan Slough.**

7. On December 22, 1997, Moline Place submitted a Notice of Intent (“NOI”) to the Illinois Environmental Protection Agency (“Illinois EPA”) for the One

Moline Place project and was granted coverage under the general permit for storm water discharges associated with construction site activities as National Pollutant Discharge Elimination Permit System ("NPDES") permit #ILR103796.

**ANSWER: Respondent admits that on December 22, 1997, Moline Place submitted a Notice of Intent to the Illinois EPA for the One Moline Place project and was granted coverage under the general permit for storm water discharges associated with construction site activities as NPDES Permit No. ILR103796.**

8. On November 6, 2002, Moline Place submitted a NOI to Illinois EPA for One Moline Place project and was granted coverage under NPDES permit #ILR107509.

**ANSWER: Respondent admits that on November 6, 2002, it submitted an NOI to Illinois EPA for the One Moline Place project and was granted coverage under NPDES Permit No. ILR107509.**

9. On July 23, 2003, NPDES permit #ILR103706 was terminated after Moline Place submitted to Illinois EPA a Notice of Termination ("NOT") of coverage dated July 16, 2003 and signed by Mr. Shamsie.

**ANSWER: Respondent admits that, on July 16, 2003, Moline Place submitted a Notice of Termination of coverage to Illinois EPA, which was signed by Mr. Shamsie. Respondent lacks sufficient information to admit or deny the remaining allegations in Request No. 9.**

10. On August 14, 2003, NPDES permit #ILR107509 was terminated after Moline Place submitted to Illinois EPA a NOT of coverage dated August 5, 2003 and signed by Mr. Shamsie.

**ANSWER: Respondent admits that on August 5, 2003, Moline Place submitted a Notice of Termination of coverage to Illinois EPA, which was signed by Mr. Shamsie. Respondent lacks sufficient information to admit or deny the remaining allegations in Request No. 10.**

11. When he submitted the July 16, 2003 and August 5, 2003 NOT's on behalf of Moline Place, Mr. Shamsie certified under penalty of law that all disturbed soils at One Moline Place had been finally stabilized or that all storm water discharges associated with individual activity from One Moline Place had been eliminated.

**ANSWER: Respondent objects to Request No. 11 on the basis that the July 16, 2003 and August 5, 2003 Notices of Termination speak for themselves.**

12. When Moline Place submitted the July 16, 2003 and the August 5, 2003 NOT's, all disturbed soils at One Moline Place had not been finally stabilized nor had all storm water discharges associated with the project been eliminated. Construction activities were actually continuing at the site.

**ANSWER: Respondent denies that, when Moline Place submitted the July 16, 2003 and August 5, 2003 NOTs, all disturbed soils at One Moline Place had not been finally stabilized, and states affirmatively that it was impossible to eliminate all storm water discharges associated with the project. Respondent denies that construction activities were continuing at the site. Respondent denies all remaining factual allegations in paragraph 12.**

13. On March 24, 2004, James Kammuehler of Illinois EPA first inspected the construction site at One Moline Place. At that time, roadway installation had commenced

and house construction work was occurring on the east site. Sediment was collecting on the sidewalks and public streets as well as entering storm water inlets.

**ANSWER: Respondent lacks sufficient information to admit or deny the allegations of Request No. 13 with regard to what Mr. Kammueler observed during his March 24, 2004 inspection, and therefore denies the same. To the extent that Request No. 13 states any further allegations of fact, Moline Place denies the same.**

14. The City of Moline Public Works Department had been required to remove sediment from public roadways adjacent to One Moline Place since construction work had begun. Sediment leaving the One Moline Place construction site flowed down bluffs and down 6th Street onto 4th Avenue (Rte. 29) causing a traffic hazard.

**ANSWER: Respondent lacks sufficient information to admit or deny the allegations Request No. 14 with regard to what the City of Moline Public Works Department was required to do, and therefore denies the same. To the extent that Request No. 14 states any further allegations of fact, Moline Place denies the same.**

15. On May 17, 2004, Illinois EPA issued NPDES permit #ILR10A460 to Moline Place after Moline Place submitted a third Notice of Intent ("NOI"), dated April 12, 2004 and signed by Mr. Shamsie.

**ANSWER: Respondent admits that Moline Place Development submitted a third Notice of Intent, dated April 12, 2004 and signed by Mr. Shamsie. Respondent lacks sufficient information to admit or deny the remaining allegations in Request No. 15.**

16. From August 14, 2003 through May 17, 2004, Moline Place had no coverage under the NPDES general permit for construction site activities although construction activities were proceeding at One Moline Place.

**ANSWER: Respondent objects to Request No. 16 on the basis that the requested admission is not a statement of fact, but a conclusion of law.**

17. On May 20, 2004, Mr. KammueLLer re-inspected One Moline Place. At that time, construction work was occurring on the east site and some demolition work concerning a former dormitory building was occurring on the west site. Sediment continued leaving the site at numerous locations and entering city streets, sidewalks, and storm inlets. Erosion gullies were present near the storm water inlets.

**ANSWER: Respondent lacks sufficient information to admit or deny the allegations of Request No. 17 with regard to what Mr KammueLLer observed during his May 20, 2004 inspection, and therefore denies the same. To the extent that Request No. 17 states any further allegations of fact, Moline Place denies the same.**

18. On March 23, 2005, Mr. KammueLLer re-inspected the construction site at One Moline Place. At that time, sediment was still discharging from both the east and west sites to streets, sidewalks, and storm inlets. Most of the east site was still barren and vegetation cover that was present was not at 70% density. On the east site, there were erosion channels, storm inlets covered with sediment, a severely damaged area of the straw bale system and off-site sediment on the sidewalk and street. No Incidence of Noncompliance ("ION") reports had been submitted by Moline Place.



**ANSWER: Respondent lacks sufficient information to admit or deny the allegations of Request No. 18 with regard to what Mr Kammueler observed during his March 23, 2005 inspection, and therefore denies the same. To the extent that Request No. 18 states any further allegations of fact, Moline Place denies the same.**

19. On November 9, 2005, Mr. Kammueler re-inspected the construction site at One Moline Place. At that time, sediment was still discharging to streets, sidewalks, and storm inlets. Vegetation cover was not at 70% density. The straw bales in place were old and deteriorated. There was intentional bypassing of erosion controls at inlet no. 1. No ION reports had been submitted by Moline Place.

**ANSWER: Respondent lacks sufficient information to admit or deny the allegations of Request No. 19 with regard to what Mr Kammueler observed during his November 9, 2005 inspection, and therefore denies the same. To the extent that Request No. 19 states any further allegations of fact, Moline Place denies the same.**

20. On January 27, 2006, Mr. Kammueler re-inspected the construction site at One Moline Place. At that time, no erosion controls were in place for construction activity areas and additional soil areas had been disturbed. Unprotected dirt dump-sites were present. Vegetation cover was not at 70% density. No ION reports had been submitted by Moline Place.

**ANSWER: Respondent lacks sufficient information to admit or deny the allegations of Request No. 20 with regard to what Mr Kammueler observed during his January 27, 2006 inspection, and therefore denies the same. To the extent that Request No. 20 states any further allegations of fact, Moline Place denies the same.**

21. On March 23, 2006, Mr. Kammuller re-inspected the construction site at One Moline Place. At that time, storm inlets were not protected. Sediment was leaving the site and entering nearby storm inlets. The only interim erosion controls were deteriorated straw bales.

**ANSWER: Respondent lacks sufficient information to admit or deny the allegations of Request No. 21 with regard to what Mr Kammuller observed during his March 23, 2006 inspection, and therefore denies the same. To the extent that Request No. 21 states any further allegations of fact, Moline Place denies the same.**

22. On September 13, 2007, Mr.Kammuller re-inspected the construction site at One Moline Place. At that time, the old and deteriorated straw bales at the site were not protecting storm water inlets. Storm water inlets were covered with sediment. New construction activity areas were not protected to keep sediment out of the public streets. Demolition of the dormitory building was underway and no erosion controls were provided to keep demolition debris run-off from the streets and storm water inlets.

**ANSWER: Respondent lacks sufficient information to admit or deny the allegations of Request No. 22 with regard to what Mr Kammuller observed during his September 13, 2007 inspection, and therefore denies the same. To the extent that Request No. 22 states any further allegations of fact, Moline Place denies the same.**

23. A City of Moline inspection on June 29, 2009, in response to a citizen complaint, confirmed that sediment was continuing to leave the One Moline Place construction site, that areas of the site lacked erosion controls, and that erosion controls in place were ineffective.

**ANSWER: Respondent lacks sufficient information to admit or deny the allegations of Request No. 23 with regard to what the City of Moline observed during its June 29, 2009 inspection, and therefore denies the same. To the extent that Request No. 23 states any further allegations of fact, Moline Place denies the same.**

24. On June 30, 2009, the City of Moline issued its Notice and Order to Moline Place pursuant to the municipal Storm Water Ordinance for continuing storm water violations at One Moline Place.

**ANSWER: Respondent admits that, on June 30, 2009, the City of Moline issued a Notice and Order to Moline Place pursuant to the municipal Storm Water Ordinance, but denies all remaining factual allegations of Request No. 24.**

25. The NPDES permits issued to Moline Place required it to develop a Storm Water Pollution Prevention Plan ("SWPPP") according to good engineering practices and implementation of the SWPPP by Moline Place was a condition of the permit.

**ANSWER: Respondent objects to Request No. 25 on the basis that the NPDES permits issued to Moline Place speak for themselves, and Request No. 25 is not a statement of fact, but a conclusion of law. To the extent that Request No. 25 states any allegations of fact, Moline Place denies the same.**

26. Moline Place conducted construction site activities at One Moline Place without NPDES permit coverage during 2003 and 2004.

**ANSWER: Respondent objects to request No. 26 on the basis that it is not a statement of fact, but a conclusion of law.**

27. Moline Place caused or allowed large amounts of sediment from the One Moline Place site to collect on sidewalks and public streets and enter the municipal storm water system from at least March 24, 2004 through at least June 29, 2009 due to inadequate stormwater erosion controls.

**ANSWER: Respondent denies the allegations in paragraph 27.**

28. Moline Place failed to properly operate and maintain erosion and sediment control measures at One Moline Place.

**ANSWER: Respondent denies the allegations in paragraph 28.**

29. Moline Place failed to have disturbed portions of the One Moline Place site where construction activities had temporarily or permanently ceased stabilized with appropriate measures no later than 14 days after the last construction activity in that area.

**ANSWER: Respondent denies the allegations in paragraph 29.**

30. Moline Place failed to have qualified personnel perform inspections of disturbed areas of the One Moline Place construction site that had not been finally stabilized, structural control measures, and locations where vehicles enter or exit the site at least every seven calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater or equivalent snow.

**ANSWER: Respondent denies the allegations in paragraph 30.**

31. Moline Place failed to submit within 5 days an "Incidence of Noncompliance" ("ION") report for violations of the SWPPP observed during a periodic inspection.

**ANSWER: Respondent denies the allegations in paragraph 31.**

32. Attached hereto as "Exhibit A" is a true and correct copy of the NOT dated July 16, 2003 and signed by Mr. Shamsie.

**ANSWER: Respondent admits that Exhibit A is a true and correct copy of the NOT dated July 16, 2003 and signed by Mr. Shamsie..**

33. Attached hereto as "Exhibit B" is a true and correct copy of the NOT dated August 5, 2003 and signed by Mr. Shamsie.

**ANSWER: Respondent admits that Exhibit B is a true and correct copy of the NOT dated August 5, 2003 and signed by Mr. Shamsie.**

34. Attached hereto as "Exhibit C" is a true and correct copy of the City of Moline's Notice and Order to Moline Place pursuant to the municipal Storm Water Ordinance dated June 30, 2009.

**ANSWER: Respondent lacks sufficient information and knowledge to admit or deny that "Exhibit C" is a true and correct copy of the City of Moline's Notice and Order to Moline Place pursuant to the municipal Storm Water Ordinance dated June 30, 2009.**

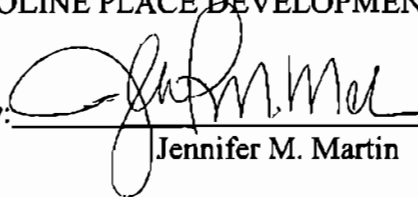
Respectfully submitted,

MOLINE PLACE DEVELOPMENT, L.L.C.

Dated: January 28, 2010

Jennifer M. Martin  
HODGE DWYER & DRIVER  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
(217) 523-4900

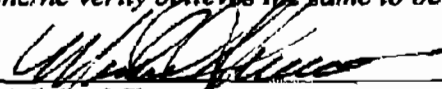
By: \_\_\_\_\_



Jennifer M. Martin

**VERIFICATION**

*Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that she/he verily believes the same to be true.*



Michael Shamsie  
Moline Place Development, LLC

Subscribed and sworn to before me  
this 27 day of January, 2010.

  
Notary Public

**CERTIFICATE OF SERVICE**

I, Jennifer M. Martin, the undersigned, hereby certify that I have served the  
RESPONSE TO COMPLAINANT'S REQUEST FOR ADMISSION OF FACT AND  
GENUINENESS OF DOCUMENTS upon:

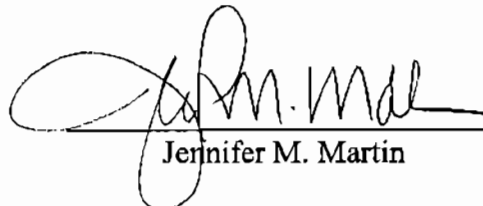
Mr. John Therriault  
Assistant Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

via electronic mail on January 28, 2010; and upon:

Carol Webb, Esq.  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Post Office Box 19274  
Springfield, Illinois 62794-9274

Raymond J. Callery, Esq.  
Office of the Attorney General  
500 South Second Street  
Springfield, Illinois 62706

by depositing said documents in the United States Mail, postage prepaid, in Springfield,  
Illinois on January 28, 2010.

  
Jennifer M. Martin